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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,840	02/06/2002	Steven Charles Glassman	9772-0313-999	3725

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FORT COLLINS, CO 80527-2400

EXAMINER
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HERRING, VIRGIL A

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 10/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/072,840	<b>Applicant(s)</b> GLASSMAN ET AL.	
	<b>Examiner</b> Virgil Herring	<b>Art Unit</b> 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 56-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 56-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to the Request for Continued Examination filed 24 July 2006. Claims 1-55 have been cancelled. Claims 56-62 are new. Claims 56-62 are currently pending.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 56-62 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 58 recites the limitations "the subsequent login attempt" and "the longer time delay". There is insufficient antecedent basis for this limitation in the claim. The examiner believes that claim 58 is intended to depend from claim 57 rather than 56. Clarification of this point is requested.

Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine

Art Unit: 2132

the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “serializing” in claim 59 is used by the claim to mean “tracking” or “storing”, while the accepted meaning is “transmitting in sequence” or “occurring in a series.” The term is indefinite because the specification does not clearly redefine the term.

Claim 60 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation “responsive to the limited number being zero, associating a different class of login cookie with a more preferential level of service with the login cookie” is not supported by the specification. It appears that the limitation would upgrade a second-class login cookie to a first-class login cookie, which is the opposite of applicant’s invention as understood by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 2132

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 56-59, 61, and 62 rejected under 35 U.S.C. 102(a) as being anticipated by Bhatti et al (US Patent #6,304,906 B1).

With regards to claims 56 and 62, Bhatti et al disclose a method for providing multi-class processing of login requests comprising:

associating a login cookie class with a login cookie; and (column 8, lines 9-15)

providing a level of service to login attempts associated with the login cookie based on the login cookie class of the login cookie. (column 6, lines 13-39)

With regards to claim 57, Bhatti et al disclose the method of claim 56 wherein providing a level of service to login attempts associated with the login cookie based on the login cookie class of the login cookie further comprises:

imposing a longer time delay between an invalid login attempt and a subsequent login attempt for a second-class login cookie than for a first-class login cookie. (column 6, lines 13-39; "Each tier or class may have targets or

expectations for performance” – lower class logins would experience lower class service, i.e. longer time delays)

With regards to claim 58, Bhatti et al disclose the method of claim 56 wherein providing a level of service to login attempts associated with the login cookie based on the login cookie class of the login cookie further comprises:

invalidates the subsequent login attempt for the second-class login before a user name and password are processed responsive to the subsequent login attempt being performed before the expiration of the longer time delay. (column 6, lines 13-39; lower class login attempts would experience lower class service, i.e. longer time delays; invalidation of attempts to login before a time delay is inherent in computer security systems)

With regards to claim 59, Bhatti et al disclose the method of claim 56 wherein providing a level of service to login attempts associated with the login cookie based on the login cookie class of the login cookie further comprises:

serializing login attempts made without a first-class login cookie. (login attempts to a computer system inherently occur serially, rather than in parallel)

With regards to claim 61, Bhatti et al disclose the method of claim 56 wherein providing a level of service to login attempts associated with the login cookie based on the login cookie class of the login cookie further comprises:

processing a login attempt associated with a class with a less preferential level of service at a lower defined rate than another class with a more preferential level of service based on a login state which defines a rate at which a server can process login attempts. (column 6, lines 13-39; lower class login attempts experience lower class service, i.e. service at a lower rate)

Claims 56-59, 61, and 62 are rejected under 35 U.S.C. 102(e) as being anticipated by Mosberger et al (US Patent #6,438,597) for reasons similar to those described above.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

### ***Conclusion***

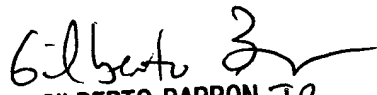
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virgil Herring whose telephone number is (571) 272-8189. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Virgil Herring VH  
Examiner  
Art Unit 2132

VH

  
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